

REMARKS

In accordance with the above amendments, claims 45, 54 and 60-63 have been canceled, claims 52-53, 56-59 and 64-66 have been amended. Claims 52-53, 56-59 and 64-66 remain under consideration in this application. No claim has been allowed.

Applicants have been somewhat confused and misled with respect of the finality of the subject Action. It is noted on the page containing the Office Action Summary and from which docketing of this response was taken indicates that this Action is non-final. However, when one gets to page 7 at the end, there is an indication that the Action has been made final. In view of the confusing and contradictory nature of these two indications, it is respectfully requested that this Action be treated as non-final by the Examiner.

In accordance with the above amendments, the objection to claim 66 is believed to have been met by changing "device" to -- means--in the penultimate line.

With respect to the rejection of the claims based on the non-statutory double patenting doctrine, the applicants stand ready and willing to provide any necessary Terminal Disclaimer with respect to U.S. Patent 6,169,921 or co-pending Application Serial No. 09/206,329 should claims in this application be otherwise deemed allowable.

With respect to the possibility of conflict between claims 45, 52-54 and 56-53 of this application with claims 1, 8, 16-19

and 26 of application 09/206,329, applicants respectfully traverse this finding. It is believed that the claims of Serial No. 09/206,329 are clearly distinguishable from those of the present case. For example, the claims of that application include limitations on the afterpotential attenuation system or means that clearly are not found in the claims of the present case.

With respect to the rejection of the claims on the merits under 35 USC § 102, it is noted that although both the Silvian reference (U.S. Patent 4,991,583) and Hafner et al (U.S. Patent 5,690,683) disclose aspects of the cardiac stimulation system of the present invention, both fail to recognize the possibility of a system as versatile and with as much selectability as that taught by the present invention. It is further believed that none of the references cited based on 35 USC § 103 render the concept of the present invention obvious to one skilled in the art.

Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,
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CERTIFICATE OF MAILING VIA FACSIMILE

I hereby certify that the foregoing Amendment in response to the Official Action of September 21, 2004, in application Serial No. 09/753,738 of inventors, Geng Zhang, et al., filed January 2, 2001, for "AUTOCAPTURE PACING/SENSING CONFIGURATION" and a Transmittal Letter are being sent by facsimile transmission to: Examiner Kennedy Schaetzle, Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 21, 2004, facsimile No. 703-872-9306.


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Date of Signature: December 21, 2004